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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/579,616

01/22/2007

Veit Stossel

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75474

7590

04/04/2008

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EXAMINER

WHITE, RODNEY BARNETT

ART UNIT

PAPER NUMBER

3636

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/579,616	<b>Applicant(s)</b> STOSSEL ET AL.	
	<b>Examiner</b> Rodney B. White	<b>Art Unit</b> 3636	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 February 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 31-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-33, 41-46, 48-51 and 54-57 is/are rejected.
- 7) ☒ Claim(s) 34-40, 47, 52 and 53 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/17/2006</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 32, 41-42, 48, and 54-57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 32, lines 3-4, "the unarched condition" lacks antecedent basis.

In claim 41, line 2, "the one opening" lacks antecedent basis. On line 3, "the front" and "the longitudinal bar" lack antecedent basis. On lines 6-7, "he front" and "the other longitudinal bar" lack antecedent basis.

In claim 42, line 4, "the front" and "the longitudinal bar" lack antecedent basis. On lines 6-7, "he front" and "the other longitudinal bar" lack antecedent basis.

It appears Claims 41-42 appear in the wrong numerical order and depend from the wrong claims since Applicant does not claim or define the "longitudinal bars" until claims 44-47.

In claim 48, line 2, "the one opening" lacks antecedent basis. On line 3, "the front" lacks antecedent basis. On lines 6-7, "he front" and "the other longitudinal bar" lack antecedent basis.

In claim 54, "the Bowden cable arrangement" lacks antecedent basis.

The aforementioned problems render the claims vague and indefinite.

Clarification and/or correction is required

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

((b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 30-33, 44-46, and 49-51 are rejected under 35 U.S.C. 102(b) as being anticipated by Dal Monte (U.S. Patent No. 4,909,568).

Dal Monte teaches a lumbar support, comprising an archable supporting element, and an adjustment mechanism 16 for adjusting a curvature of the archable supporting element into a first curvature direction, in which the archable supporting element forms a convex supporting surface 4, and into a second curvature direction, in which the archable supporting element forms a concave supporting surface 5, whereby the adjustment mechanism is configured in such a manner that for adjusting the curvature of the archable supporting element into the first curvature direction it exerts a traction force onto a back of the archable supporting element, while for adjusting the curvature of the archable supporting element into the second curvature direction it exerts a traction force onto a front of the archable supporting element, the adjustment

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mechanisms comprising first adjustment means having a tension member 13 engaging the back of the archable supporting element for adjusting the curvature of the archable supporting element into the first curvature direction, and second adjustment means having a tension member 13 engaging the front of the archable supporting element for adjusting the curvature of the archable supporting element into the second curvature direction, wherein the lumbar support is configured in such a manner that the first and second curvature directions are aimed substantially opposite to one another out of a plane, which is defined by the archable supporting element in the unarched condition, wherein the tension member of the first adjustment means engages a back of at least one end section of the archable supporting element for the curvature of the archable supporting element into the first curvature direction, while the tension member of the second adjustment means engages a front of at least one end section of the archable supporting element for the curvature of the archable supporting element into the second curvature direction, wherein actuating means are provided for operating the adjustment mechanism, wherein common actuating means are provided for the first adjustment means and the second adjustment means of the adjustment mechanism, wherein the common actuating means are configured in such a manner that an adjustment of the first adjustment means for increasing a curvature of the archable supporting element into the first curvature direction at the same time leads to an adjustment of the second adjustment means for reducing the curvature of the archable supporting element into the second curvature direction and vice versa, wherein the archable supporting element comprises a first supporting section and a second

supporting section, which are connected via at least one longitudinal bar 16 running in the longitudinal direction of the archable supporting element, , wherein the at least one longitudinal bar is configured in such a manner that it is flexible in the longitudinal direction of the archable supporting element, wherein the at least one longitudinal bar in the longitudinal direction of the archable supporting element has elevations and depressions in alternating succession, which in each case run in the transverse direction of the at least one longitudinal bar, in order to cause a flexibility in the longitudinal direction of the archable supporting element.

Claims 30-33, 44-46, and 49-51 are rejected under 35 U.S.C. 102(b) as being anticipated by Dal Monte (U.S. Patent No. 4,968,093).

Dal Monte teaches a lumbar support, comprising an archable supporting element, and an adjustment mechanism 16 for adjusting a curvature of the archable supporting element into a first curvature direction, in which the archable supporting element forms a convex supporting surface 4, and into a second curvature direction, in which the archable supporting element forms a concave supporting surface 5, whereby the adjustment mechanism is configured in such a manner that for adjusting the curvature of the archable supporting element into the first curvature direction it exerts a traction force onto a back of the archable supporting element, while for adjusting the curvature of the archable supporting element into the second curvature direction it exerts a traction force onto a front of the archable supporting element, the adjustment mechanisms comprising first adjustment means having a tension member 13 engaging

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the back of the archable supporting element for adjusting the curvature of the archable supporting element into the first curvature direction, and second adjustment means having a tension member 13 engaging the front of the archable supporting element for adjusting the curvature of the archable supporting element into the second curvature direction, wherein the lumbar support is configured in such a manner that the first and second curvature directions are aimed substantially opposite to one another out of a plane, which is defined by the archable supporting element in the unarched condition, wherein the tension member of the first adjustment means engages a back of at least one end section of the archable supporting element for the curvature of the archable supporting element into the first curvature direction, while the tension member of the second adjustment means engages a front of at least one end section of the archable supporting element for the curvature of the archable supporting element into the second curvature direction, wherein actuating means are provided for operating the adjustment mechanism, wherein common actuating means are provided for the first adjustment means and the second adjustment means of the adjustment mechanism, wherein the common actuating means are configured in such a manner that an adjustment of the first adjustment means for increasing a curvature of the archable supporting element into the first curvature direction at the same time leads to an adjustment of the second adjustment means for reducing the curvature of the archable supporting element into the second curvature direction and vice versa, , wherein the archable supporting element comprises a first supporting section and a second supporting section, which are connected via at least one longitudinal bar 16 running in

the longitudinal direction of the archable supporting element, wherein the at least one longitudinal bar is configured in such a manner that it is flexible in the longitudinal direction of the archable supporting element, wherein the at least one longitudinal bar in the longitudinal direction of the archable supporting element has elevations and depressions in alternating succession, which in each case run in the transverse direction of the at least one longitudinal bar, in order to cause a flexibility in the longitudinal direction of the archable supporting element.

Claims 30-33, 44-46, and 49-51 are rejected under 35 U.S.C. 102(b) as being anticipated by Dal Monte (U.S. Patent No. 5,026,116).

Dal Monte teaches a lumbar support, comprising an archable supporting element, and an adjustment mechanism 16 for adjusting a curvature of the archable supporting element into a first curvature direction, in which the archable supporting element forms a convex supporting surface 4, and into a second curvature direction, in which the archable supporting element forms a concave supporting surface 5, whereby the adjustment mechanism is configured in such a manner that for adjusting the curvature of the archable supporting element into the first curvature direction it exerts a traction force onto a back of the archable supporting element, while for adjusting the curvature of the archable supporting element into the second curvature direction it exerts a traction force onto a front of the archable supporting element, the adjustment mechanisms comprising first adjustment means having a tension member 13 engaging the back of the archable supporting element for adjusting the curvature of the archable



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supporting element into the first curvature direction, and second adjustment means having a tension member 13 engaging the front of the archable supporting element for adjusting the curvature of the archable supporting element into the second curvature direction, wherein the lumbar support is configured in such a manner that the first and second curvature directions are aimed substantially opposite to one another out of a plane, which is defined by the archable supporting element in the unarched condition, wherein the tension member of the first adjustment means engages a back of at least one end section of the archable supporting element for the curvature of the archable supporting element into the first curvature direction, while the tension member of the second adjustment means engages a front of at least one end section of the archable supporting element for the curvature of the archable supporting element into the second curvature direction, wherein actuating means are provided for operating the adjustment mechanism, wherein common actuating means are provided for the first adjustment means and the second adjustment means of the adjustment mechanism, wherein the common actuating means are configured in such a manner that an adjustment of the first adjustment means for increasing a curvature of the archable supporting element into the first curvature direction at the same time leads to an adjustment of the second adjustment means for reducing the curvature of the archable supporting element into the second curvature direction and vice versa, , wherein the archable supporting element comprises a first supporting section and a second supporting section, which are connected via at least one longitudinal bar 16 running in the longitudinal direction of the archable supporting element, wherein the at least one

longitudinal bar is configured in such a manner that it is flexible in the longitudinal direction of the archable supporting element, wherein the at least one longitudinal bar in the longitudinal direction of the archable supporting element has elevations and depressions in alternating succession, which in each case run in the transverse direction of the at least one longitudinal bar, in order to cause a flexibility in the longitudinal direction of the archable supporting element.

Claims 34-40, 47, 52-53 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 41-43, 48, and 54-57 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Frank teaches, or rather mentions, that push paddle supports exist that will have a pressure surface base level that does not change profile, but is extended or retracted for support as well as tensioning straps have a pressure surface that does change profile in use, some times from concave to flat or from flat to convex.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (571) 272-6863. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on (571) 272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rodney B. White/  
Primary Examiner  
Art Unit 3636  
April 1, 2008